

# The iust Lavvyer

His

6145. 630

## Conscionable Complaint

against

Auricular or private Informing and solici-  
ting of Iudges.

By their { Menialls,  
Friends and  
Favourites.

With

A sure Advice for Reformation thereof:

As also,

*An Appendix with objections against  
Favourites at the barre of Iustice;*

With

*A probable Receipt for the Cure of that  
Maladie.*

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Alterna Petitio non est audienda. Coke. li. 5. 2. part 40.

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Let those that on this Title chance to looke,  
Read the Epistle or neglect the Booke.

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London, printed by George Parslowe 1631.

The last Lawyer

Conscience's Complaint

Against the sinners of the world

By John Donne



As this is a new edition

of the works of the same

author as the former

With

A new and enlarged

Index

By the same author

Let those that on this Title chance to look

Read the Epistle or neglect the Book

Printed by I. I. 1646





The PUBLISHER to the  
PERUSER.



**T**He difference of mens dispositions and degrees (as we may daily note) produceth different Effects, as wel in reprovng vices and approving vertues: as on the contrary, every one expressing himselfe by Lips or Letters, according to the suggestions of that good or evill spirit, whereby he is induced or seduced.

This man being of a temperate and sober quality, inveighs against Riotousnes and Intemperancy. That man addicted to labor and thriftnesse, accuseth our fashion-following Gentry of sloth and prodigality.

## The Publisher

digality: So (in particular) the Author of this Treatise, spending his dayes in the study and practice of the Law (wherein he grew to such proficiency, alwaies directed by Integrity, as made him famous both for learning and honesty, whose name neverthelesse for some causes I conceale) many yeeres sithence, as one pathetically moved with the corrupt courses used, and the excessive bribery affected in those dayes by his brethren learned in the Lawes, especially the more eminent sort; and the continuall condescending or proclivity of the Iudges, not onely to their uniuert motions, but to the private and undue solicitations of their owne Menials, besides their Friends & Favourites at large, and their partiall preferring or bearing of some Pleaders before others at the Barre of Iustice, (whereby many a Client in his iust cause had suffered wreck





to the Peruser.

wreck and perished contrary to Law, all  
Equity and good Conscience ) That  
black Swan or iust Lawyer spared some  
time from his other studies to penne this  
Conscionable Complaint; which albe-  
it the same cannot extend, nor may any  
way enure unto the least impeachment  
or contumely of our honourable Iudges in  
these times (whom I ingeniously acknow-  
ledge, and fame declares to bee of a most  
reformed and unimpeachable condition)  
yet may it serve as a good caveat & hum-  
ble information to the uprightnesse of  
them and their Successours, for the pre-  
venting and avoiding of the like abuses  
to be offered by their Friends or Follow-  
ers, or by any such ill conscienced Advo-  
cates, (whereof there are too too many (I  
feare) still abiding or new started up)  
and also as a Memento for all men to  
note the plausible and happy alteration

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in courts and courses of Iustice, the ancient with the moderne proceedings duely compared: And likewise all those trespassers viewing (as in a glasse) their own deformities (or rather enormities) herein so lively represented and publike-ly declared, may haply bee incited either for feare of shame, or for the gaine of an honest name, to become conscionable Converts. And for my part, with and in favour of every well-meaning and abused Client, I wish all such Lawyers to bee speedily converted or subverted, and so conclude.

*Editōr benevolus  
ad Causidicum iniquum.*

Nec me vulgantem reprehendas, has neque Chartas;  
Ne tua te vulget lingua maligna reum.


*Ad Librum.*

Te nolunt culpae boni bonitatis amore;  
Te nolunt culpae mali formidine probri.





# THE COMPLAINT OF Good Conscience.

 **A**Ll *Laws* both divine and humane, and all the *Counsels* of learned and vertuous *Politicians* doe concurre and joyne in this point; that it is the Office of an upright *Iudge*, *in-  
stigare verum*, to trace out the very truth of the cause in Iudgement before him, *et secundum ve-  
ritatē sententiam dicere*, & give sentence according to the truth: So as in doing that Office he ought not to respect the person of any, but altogether to set up for his marke, the cause with the *circumstances* thereof, being assured, that *quic-  
quid extra causam est, persona est*. And therefore the Embleme of a *Iudge* was rightly pourtrayed with *vide aures*, but without any eyes at all; to denote that hee ought fully and patiently to heare the whole cause but not affectionate-

ly

*Altera aures  
Accusatori,  
altera Reo est  
reservanda*

ly to respect any partie that hath to meddle therein.

The purpose of a  
whispering Informer.

On the other side, the very drift of a whispering *Informer* is either to allure the *Iudge* from that *Indifferencie* (which he ought equally to nourish betweene both parties in suit) to a partiall disposition in favour of the *one* against the *other* of them: or otherwise to shore up the *Iudge* (as it were) when he suspecteth his *inclination* to the *Adversary*. In both which he bewrayeth an unreverend conceipt and opinion of the *Iudge*, whom in the court of his owne heart he hath already condemned of *infidelity*; in the one, because he suspecteth him to be drawne away to his disfavour, in the other, because hee hopeth to win and fit him to his owne *bent* and desire. And so is he farre from reputing him as he ought to be, *Murus abeneus*, a wall of brasse; whom neither the wind of secret *solicitation*, nor the storme of mighty *threats*, nor the showre of *Crocodilian* teares ought once to remove, shake or mollifie.

For if this *Informer* were rightly perswaded of the *integrity* of the *Iudge*; What necessity can he pretend to sollicite him? what reason

can



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can he yeeld why he should not permit him to sit downe and rest in his owne sincerity? Yea, why should hee endeavour to *move* him (for so they terme it) unlesse he thought him to be light and moveable? or finally to what end doth he causelessly waste his owne labour, and vainely *obtrund* his cares and *interpell* his Affaires.

How speciously soever therefore these our *Cabinet Inchanters* shall pretend in words, either that they desire none other than lawfull favour (a thing that is not indeed, since *Law* is indifferent and *Favour* is partiall) or that they seeke onely the good and equall conscience of the *Iudge* (which they might finde without labour) or that they sue for expedition onely, or that the Cause may be advisedly weighed, both which (in most of those cases) were but to plague their owne *Client*: Or that (according to the anciently allowed manner of intreating a *Iudge*) they require no more at his hands, but *quæ salva fide facere possit*, that which he may doe with the safety of his duty; yet is there evermore an irreconcilable dissention betweene Iustice and their desire; who, (what semblance soever they make to the contrary)

doe indeed hawke and hunt the *game of Favour* to the indangering of their owne *conscience*, and the wrong of the one of the parties; and that both with the dishonour and deceit of the man that (sitting in the place of God) ought to deliver even and upright Iustice to all that come before him: And so are all their sugred speeches, but *Syrenean* voyces, the poyson of *Aspes*, and the very *quintessence* of abuse and corruption.

The sorts  
of Inform-  
ers.

But now more particularly; As these *Chambers* be either the very *parties* in suit, or their *friends*; & those *Friends* either *Favourites* at large to the *Iudge* or some of his own *menials* or *followers*, or else be privy and of *Counsell* with those parties: So is there great difference in the venomous forces of their severall *solicitations*.

The party.

For, as touching the very *Parties*, they doe carry their own discredit in their mouths with them, and cannot greatly prevaile (unlesse they be assisted by the contagion of *reward*) because they speake for themselves in a matter of professed and knowne enmity. And yet the *Romane Lawes* misliking all such audacious importunities did punish *Ambitus poena*, both *Actorem* and *Reum*, that by any subtle prayers attempted

D. F. H. ad  
leg. Jul. de  
*Ambitu*.



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tempted the *Iudge* in his house or elsewhere without the Court.

Moreover, their *Favorites* at large, that be <sup>The Friends</sup> neither of counsell nor household, as they have <sup>at large.</sup> not (for the meaner sort of them) the opportunity or advantage to worke any great harme, so doe they also many times speake but coldly, and as it were, for fashion sake, to satisfie the suit of their *Clients*, who otherwise would think themselves forsaken by them.

But if those *Favorites* be persons of estate, <sup>Great Mo- vers.</sup> (whose desires carry their weight) *Officers* of great places, (who be able to interchange pleasures) or men for any respect, lodged in the bosome of the *Iudge*, then ought they so much the more to forbear him, as they bee more likely than others to allure and win him to their desire, because they bring no warrant of a good *conscience* to assure them that they speak but for the one partie, so know they but the one halfe of the businesse at the most, and wot not whether they promote *justice* or preferre *injury*, whether they succour the *afflicted* or joyne with the *oppressor*: Neither is it enough in this case to pretend that they are moved by their commiseration towards the poore

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(a *skonce* that many keepe for their defence) for what is that to the *Iudge*, who as a *Iudge*, is utterly forbidden to behold the face of the poore? Or what maketh that to their owne deliverance, when many (if not most) of the poore which follow *suits* can both bite and whine (*ut vulgò dicitur*) and then a many of which, there is nothing more unquiet, clamorous and wretchedly wrongfull.

But of all the rest, the *Meniall* and *Counsellors* are most pernicious; and whether of them exceedeth the other, I cannot determine, but doe leave to the Iudgement of the *Iudge* himselfe that is haunted with them.

The Me-  
niall.

This *Meniall* or *Familiar*, if he may finde the *grace* to be in the eye and to stand at the elbow of his *Master* (especially in the *closet*) then shall hee not want his *Suitors*, and then also will he take the courage to boord his *Master*, not onely in lawfull *Petitions*, but also in *Causes* meerely *judiciall*; and by reason that hee is neere at hand to take hold of every advantage, and may best watch both the time, the place, and good cheere of his *Lord*, and the absence of the *adversary* and of his friends, hee will make his gaine thereby both in jeast and earnest,



nest, though now and then he doe but *fumum vendere*, sell smoke, and pay *Alchyme* for good and currant money. For of these, some will sooner use (or abuse) the name of their Master (as it were by way of a message to others, where it may prevaile) than take the paines to speake unto himselfe, lest they discover a suspicion that they be hired for money: By these and such other meanes the innocent *Iudge*, like to *Acteon*, becommeth *præda canibus*, devoured of his owne dogges, who care not what dishonorable *staine* they cast upon him (whom they are most bounden to honour) so as they may reape the *harvest* of their most greedy and ravenous *lucre*. For as these men commonly cannot judge of the state of a cause in controverſie; so neither doe they greatly care whether that part which they favour, be right or wrong; But doe onely fasten their eye upon that *money*, which may be coyned out of it, accounting that *booty* as a *reward* of their good service, wherewith they run away as glad as doth the *Dog* with a *bone*. And in this part, some of them be so miraculous *Maehiavellians* that they be able to expresse *two* sundry liquors out of one same vessell, making their owne

profit by both the parties to one same suit and controverſie.

The Coun-  
ſellor,

The *Counſellor* likewise having firſt inſinuated himſelfe and become inward with the *Judge*, by the benefit of *kindred, alliance, recommendations* of great Persons, former *education* and acquaintance, or by his owne *obſequie*, hee will forthwith ſet up his creſt, hee ſhall bee followed with a *Cloude of Clients*, and waged treble more than men of better merit: yea, he ſhalbe heard at the *Barre*, when they ſhall be wearied in wayting there: Happy is hee can get him reteind on his Counſell, and *Fortuna filius, omnes*, Every man will call him Fortunes owne darling: And if hee be of that ability, that he can bring the *Judge* to be his *Feeman* (or *Pentioner*) under the colour of a yeerely *new-yeeres-gift*, or may finde the meanes to poſſeſſe the *Judge* with the *loane* of ſome hundreds of pounds without taking any Interest therefore; then ſhall he coate all other practizers, then may no doore be kept againſt him; then ſhall he be a *gueſt* at the *Judges table*, and ſhall be admitted priuate both in the *cloſet* and alſo in the *Bed-chamber*. And yet in the meane while, is that money (ſo lent) layed out to the moſt extreme



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treme usury: For all things reckoned, it shall by his increase of *Clients*, yeeld him at the yeeres end *Centum pro Cent.* or a better penny. Now albeit this man may not compare with the *Meniall* before, in the taking of the start and watching of all bon heures and opportunities; yet through his learning and other parts (which the other wanteth) he may nip a *cause* in the head, or sting it to the heart as soone as he. It hath been seene that some of these *bel-weathers*, perceiving their *Clients* businesse unable to endure the *hammer* of open *hearing*, have advised him to bestow some score of pounds or *Flight of Angels* upon the *Iudge*, to worke it to some other end, and have offered themselves to present my *Lord* therewithall; and yet peradventure have suffered it by the way to drop into their owne pockets for a reasonable *supply* of *Fees* forgotten.

Thus, as you see is the *integrity* of this gentle *Iudge* drawne first into suspition, and after that into open obloquie, the one and the other growing by his owne facility, and by giving eare to those buzzing *Flies* and hissing *Adders*, his good quiet and repose is also interrupted by often obtunding that in his privie *Closet*, which  
hee

he might dispatch with once hearing in open Court. The *cause* of the honest *suitor* must either take wrong, or else must he also (against his will and good conscience) finde out some *Oliuer* to withstand this *Rowland* of his Adversary. These *Cormorants* are crammed even to the fulfilling of their greedy *gulse*, the sacred seate of *justice* suffereth *reproach*: The *Prince* of the people (being the *well-head* of *justice*) is abused in his *vicary*: Good men sobbing for *griefe*, and *naughty* packs *laughing* in their sleeves at it; who also doe evermore requite such their misbegotten favour with this *thankfulnesse*, that their *tongues* doe continually *itch*, untill they have *blabbed* abroad all the manner and meanes of atchieving their injurious desires and corrupt conquests.

The Remedy.

The *Remedy* of all which evils is so easie, that the same is not onely at hand, but in the very hand and power of the *Iudge* himselfe: For if he be willing to maintaine the authority and countenance of his *call*, he may *alto-vultu*, with a lofty looke take it unkindly at the hands of his better, Equall or inferiour Friends; blaming them with the touch of his credit for their so advised tampering with him in  
matter



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matter of his *judiciall* and sworne *Dutie*. Hee may also with one word of his mouth command his owne *Curres* to couch and to cease their *barking* : He may likewise send the *Suitor* to the *Court*, and his *Counsellor* to the *Barre*, and consequently rid himselfe and his house of all this unquiet *kennell*, and thereby redeeme many a good houre, which he may bestowe partly for his owne needfull *recreation*, and partly in the study and *meditation* of such matters, as be serviceable for the place that he holdeth.

But now if this *Iusticer* will justifie himselfe and say, that howsoever he may seeme to lend his outward eare to those importunities (the which it is hard in these last and worst daies for any man to avoyd that meaneth not to bee at defiance or warre with all the world) yet notwithstanding his heart is upright, and that he doth and will doe according to the *exigencie* of his *oath* and office. Let him also give me leave to say with the merry Poet, *Credat judæus Apella, non ego*. For as it is hardly credible, that any *Castle* which is continually battered should not be taken at the *length*, or that any *Woman* which admitteth all *Wooers*, should not apply to some *one* : So can this man never excuse

Objection

Answer.

cuse himselfe to the world-ward, but that by such his affability and ready eare he ministreth just suspition of swerving from the *levell* of true justice, that he playeth *Heautontimorumenos*, being no small cause that himselfe is so vexed and mis-spendeth his time.

Objection If he will have reply and say that to taste of the *cause* before the *hearing* awayleth no lesse to his *instruction*, than to the speed of the service:

Answer. I will acknowledge it, so as the same be done indifferently; but how that may be performed without the presence of both the parties, or of their *counsell*, faine would I learne: For to heare the one side alone, were (in a *matter judiciall*) to be posselt with a *prejudiciall* conceipt; and to heare them sunderly were, besides the losse of time, but to be willingly abused, since either side, may (at liberty) offer what he will, if the other be not present to confront him. Nay, the *world* (that is now adayes curious and sharpe sighted) doth well enough perceive, that evermore after such crafty suggestions so apprehended, the *Bowle* keepeth not the *Alley*, but flyeth out by one *cranke* or other; So as though the *cause* in question taketh not a direct or downeright *blow*, by judgement in  
Court;



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Court; yet shall it (by some *obliquity*) crawl away with the backe thereof broken, whether it be by resuming it to a private *hearing*, by drawing it to a long and tedious prosecution, by committing it to a partiall *report*, by referring it to some unequall *arbitrement*, or by one or other indirect *thwart*, that shall carry no lesse injustice with it, than if the *Iudge* himselfe were utterly corrupted and perverted.

Multa conceduntur per obliquum quæ non conceduntur de directo. Coke li. 6. 47.

To conclude therefore; let every good and true *Friend*, *Favourite* and *Follower* of the *Iudge* (if at the least they be desirous to maintaine the fame of his *integrity*) hold it for meere *Sacriledge* and prophanation of *Iustice*, once to attempt him in the part of his *jurisdiction*, which ought to be unto him a most chaste and undefiled *Virgin*. Let them also looke to themselves, and not onely weigh (as I said) with what good warrant of *conscience* they thus interpose themselves in a matter to them hardly halfe knowne, but also (remembering that it is forbidden maintenance by the *Law* of their *Countrie*, to embrace a *Jury*, to sollicite a *Juror*, to fee a *Counsellor*, or to give countenance at the *Barre* in another mans *suit*) let them (I say)

say) consider of what nature it is, and what it deserveth to labour, ply and wrest the *Judge*: *Counsellors* also must keepe their proper *Station*, and containe themselves within the duties of their *Calling*; for they know, that howsoever they represent the very parties, and ought to assist them; yet that must bee *usq; ad aras*, and they may not bee feed'd against a knowne Truth; for the beating out whereof (that it may bee ripened for *judgement*) they bee used as necessary and most lawfull *instruments*. So farre off is it, that they should abuse their learning, wisdom, eloquence, and other gifts to the perverting of *truth*, and subverting of *right* by seduction, or corrupting of the *Judge* that holdeth the *beame* of the causes in *Ballance*. As for the *Judge* himselfe let him not feare to launch his *boate* into the deepe, where is *Sea-roome* sufficient, and let him rest upon God (whose *Image* he is) and stirre up those divine *Talents* which hee hath received, utterly forbearing to faile neere the *shallow* and *Goodwyn* of this most dangerous *Solicitation*. So may his *Prince* joy the choyce of him: So may hee march on cheerefully maugre whatsoever *Enemie*:

So



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So may good men trust unto him in their calamity, as to an holy *Anchore* : So shall not the *wicked* dare to approach his *Court* or presence; *Iustice* shall conserve her due *honour* : and upright *Iudgement* shall stand fast and unmoveable.

His just respect for which one  
Particular at the same time be  
heard before another, to my  
understanding another way;  
One in regard of the Cause  
and another in respect of the  
Cause. A matter in the behalf of a poor per-  
son, of a weak widow, of a fatherless child;  
of a publick Servant in a Common wealth;  
is in bearing to be preferred before the cause  
of such as be rich, well assisted, of discretion,  
or private persons.

The Cause it selfe also may deserve prefer-  
ment, either in consideration of the priority of  
time, that it hath in Court, or for the imminent  
danger in which it may stand, if it be not  
speedily heard.

But



*An Appendix with obiections against  
Favourites at the Barre of  
Iustice.*



He iust respect for which one *Practizer* at the *barre* may bee heard before another, to my understanding are these twain; One in regard of the *Client*, and another in respect of the *Cause*. *A motion* in the behalfe of a poore person, of a weake widdow, of a fatherlesse child, or of a publike Servitor in a Common wealth, is in *hearing* to bee preferred before the *causes* of such as be rich, well assisted, of discretion, or private persons.

The *Cause* it selfe also may deserve preferment, either in consideration of the priority of time, that it hath in *Court*, or for the imminent danger in which it may stand, if it bee not speedily heard.

But



But that any *Counsellor* should be heard before other in regard of his person alone, without beholding the *Cause* or *Client*, hardly may any sound reason be assigned; And of that undue favour, these evils amongst others doe ensue:

First, by that ready lending of the *care* to some onely, or to Them chiefly, those onely *suits* be expedited, which these few selected persons do undertake, and in the mean space all other causes are suspended, albeit they have priority of time, or other good reason of preferment; the which unnecessary (or rather voluntary) *delay* is meere *injustice*, since *justice* consisteth not onely in the delivery of *right*, but also in affording the same with all agreeable and due *expedition*.

Secondly, by making such choice of a few *Favourites*, other good *Practitioners* in the Law are discouraged, to the great *losse* and *griefe* as well of them in their owne particular, and of many toward *Students*, that are thereby taught to seeke favour, more than to rest upon sound knowledge, as also of as many *Clients* as doe repose themselves and their *suits*, upon the fidelity and good learning of those which

seeke not the *influence* of the like favourable *aspect*.

Thirdly, the culling and cherishing of *Favourites* draweth the *Favourer* into suspicion of corrupt partiality, especially if the *Favoured* be not of better gifts and ornaments by *art* and *nature* than other men, as many of them are not found to be.

Fourthly, godly and vertuous *Practitioners* will not use unlawfull meanes for the gaining of this favour, the which (without *Sinister practice*) is not alwaies vouchsafed; and then belike the worst sort of men doe endeavour that way, and then also are causes (for the most part) put into the hands and mouths of such, as be unworthy to touch them. For it is no small furtherance to *justice* when *causes* be managed by men of *modesty*.

Fifthly, when these few doe finde, that they shall be heard, and others holden off, they advance a *monopoly* of practice in *Law*, enhauncing the *market* of *Fees* by *delay* of their *Clients*, untill that they will apply to serve their greedinesse; So as the *Noble* or *Ryall* (which within memory was an usuall *reward* for a *Counselor*) is now risen to 4. pound, 5. pound, 20. *nobles*



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bles or 10. pound with Some; whereby also suits are drawne out in length, and doe rebound to the blame of the *Iudge* that is causer and continuer of these evils.

Sixthly, what unbridled boldnesse (or rather audacious petulancie) accompanieth this unworthily bestowed *favour*, is daily seene by the demeanors of these speciall men at the *Barre*, where they forget not onely common civility to their *equalls* and *bettters*, but also that regard to the *Iudge* and *Court*, which sober men are wont and bounden to answer: Many of them also not forbearing to betray their owne *Clients*, when (after acquaintance with the *inwards* of their *Cause*, and much money milked from them) they shame not (for a little better pay) to become *Sparr-rutters*, and to goe into the *Tents* of the *Enemy*; of which fault these latter yeeres have yeelded too too many (and the same most shamefull) examples.

Seventhly, As *vertues*; so *vices* bee chained together, so as by the motion of one *Linke* the rest are stirred: And therefore this unequal *Selection* draweth this further inconvenience with it, that the *Favourite* (imbolddened by this preheminence) moveth further, and

taketh courage to sollicite the *Iudge* at his *house* or *chamber*, whereto if God suffer him to incline, then receiveth he just correction for the first favour so unwisely disposed by him.

Eighthly, This gracing of a few (especially at the *Barres* of *English Courts*) bringeth forward such as have *animam in lingua*, making them presume upon their vaine *loquacity*, and to make no account of substantiall *learning*. And here againe, Causes doe lose the time which these men doe consume in idle and vagrant discourses, digressing from the true points of the controverſie; Besides which, the *Iudge* himſelfe is in perill to be inveigled and drawne out of the way.

Ninthly, I may adde that these men (blessed with such favour in the eyes of the *Iudge*) doe at their departure and returne into their Countreyes carry the *badge* thereof in their faces, bearing countenance and seeking credit above others, where also they will doe no lesse (if not more harme) than they are before charged to have committed here.

Now



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Now for removing of this *Malady*,  
*you may use the receipt following;*  
(vizt.)

**T**AKE a headfull of Discretion, and choose  
out a convenient handfull of the freshest  
Flowers that doe grow in the Garden of  
the Law, within quarters of the Houses of Court.  
Admit these onely for practice at *Westminster*  
being first well tryed and fanned from such dust  
and drosse, as may either yet remaine at study,  
or be meeter to keepe their Chambers (for di-  
recting of Causes in suits, arguing of Cases in de-  
murrers, or naming of bookes of all sorts) or to  
serve for *Recorders* in Cities or Towne-wikes in-  
corporate, or to supply the Stewardship of Leets,  
or other rurall Courts. Then draw those first  
fourth againe through a fine streyner, and (ac-  
cording to their fundry gifts and growths) sort  
them and apply them to each Barre and af-  
fected place at *Westminster*; the heavy for the  
*Kings Bench* and *Exchequer*, and the lighter for  
the *Englisb Courts*; change and supply them as

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oft as need shall be, hearing them (alwaies in  
the meane time) with good *indifferencie*, and  
so as neither some *swell* nor others do *brink*  
or faint. And by Gods grace, you  
shall soone perceiue the *griefe*  
to depart.

*Probatum esto.*

**FINIS.**





